

**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

Application of Starlink Services, LLC for  
Designation as an Eligible Telecommunications  
Carrier for Purposes of Receiving Rural Digital  
Opportunities Fund Support

DTC 21-1

**MOTION FOR CLARIFICATION, WAIVER, OR EXTENSION OF TIME  
REGARDING CONDITIONS IN THE ETC DESIGNATION ORDER**

Starlink Services, LLC. (“Starlink Services”) is grateful to the Commissioner and the Department Staff for the June 7, 2021 Order Approving Petition (“Order”), which designated Starlink Services an Eligible Telecommunications Carrier (“ETC”), a prerequisite to Starlink Services’ receipt of funding under the Rural Digital Opportunity Fund (“RDOF”) to deploy voice and broadband services to unserved areas in the Commonwealth. As the Order states (p. 20), “[b]ringing federal funds into Massachusetts for the purpose of constructing and maintaining broadband infrastructure should convey a public benefit to the affected communities.”

However, there are some inconsistencies among the various conditions set forth in the Order, which make some of the Order’s specified conditions impractical. At best, these inconsistencies create ambiguity and uncertainty and may lead to future controversy if not resolved. Accordingly, Starlink Services requests clarification as to the timing of its compliance obligations, waiver of certain conditions in particular instances, or extensions of time to comply with certain conditions, as appropriate.

The conditions at issue are certain generally applicable state ETC requirements set forth on page 17 of the Order that require Starlink Services to provide specified information within 60

days of the Order's issuance. The timing of compliance with these general ETC conditions, as specified, is inconsistent with the compliance deadlines of the conditions tailored specifically to Starlink Services on page 23 of the Order, which require filing of similar information "as soon as it becomes available and prior to commencing RDOF service in Massachusetts." Specifically:

- The requirement on page 17, 1.c, to provide rates, terms, and conditions of service applicable to qualifying Lifeline service customers is essentially the same as the requirement on p. 23, fourth bulleted paragraph, to provide information about the Company's Lifeline service offering, including rates, terms, and conditions.
- The requirement on p. 17, 1.d, to provide contact information for the customer service representative is essentially the same as that in the fifth bullet point on p. 23, requiring that Starlink Services update the Department on its means of customer contact for inquiries and complaints.
- The requirements on page 17, 1.a, 1.b, and 1.e, regarding the Lifeline application form, advertising and marketing materials, and annual recertification methods also may be included in the information described in the fourth bulleted paragraph on p. 23, requiring "information about the Company's Lifeline service offering."

The inconsistent deadlines not only create ambiguity and confusion, but they raise issues of impossibility or impracticality of performance.

Starlink Services respectfully states as reasons for the requested relief:

**1. It is impractical for Starlink Services to comply with the state ETC conditions within 60 days.** The Federal Communications Commission ("FCC") is currently reviewing all applications for RDOF support, including Starlink Services's. Once the FCC has completed its review, it will formally grant each application and begin providing RDOF support. Starlink Services does not anticipate that the FCC will begin granting RDOF applications within 60 days from the Order granting Starlink Services ETC status in Massachusetts. Additionally, as the Department is aware, the purpose of RDOF support is to fund new network deployments to bring high speed broadband and voice services to rural areas unserved by 25/3 Mbps broadband.

Understanding that new network deployments take time, the FCC established buildout “milestones” that govern when RDOF recipients, including Starlink Services, must begin offering service. As set forth in Starlink Services’ petition in this case, Starlink Services is required to offer service to 40% of the awarded locations by the end of the third full calendar year following funding authorization, and 20% each year thereafter, resulting in 100% deployment to funded locations by the end of the sixth calendar year. Application of Starlink Services, LLC for Designation as an Eligible Telecommunications Carrier for Purposes of Receiving Rural Digital Opportunities Fund Support; Request for Expedited Consideration, Jan. 4, 2021 (“Petition”), at 5-6. Given that RDOF support will fund network deployments, buildout of which is an essential pre-requisite to offering service, services will not be immediately available, and the details of Starlink Services’ future offerings remain under development. Specific plans, pricing, and terms have yet to be finalized, and will not be finalized within 60 days of the Order.

**2. The 60-day deadlines do not make sense in this situation.** The 60-day requirements appear aimed at an established provider that will in fact commence ETC services within 60 days of designation. The requirements are not designed for the situation here — where state ETC designation is a necessary prerequisite for the receipt of federal funding, but where additional approvals remain necessary, commencement of service is not imminent, and many details of the service offerings remain under development.

In fact, going back to the genesis of the state ETC requirements, the Department’s stated interest was to obtain the information before service was provided. For example, the Department’s reason for requirement to file rates, terms, and conditions of Lifeline service was:

While such items generally are filed during the designation process, Lifeline rates, terms, and conditions may change, and this requirement allows the Department to

capture an ETC's most up-to-date rates, terms, and conditions *prior to it commencing offering Lifeline service.*

*Investigation by the Department on its Own Motion into the Implementation in Massachusetts of the Federal Communications Commission's Order Reforming the Lifeline Program*, D.T.C. 13-4, Notice of Proposed Requirements and Further Request for Comment, Aug. 21, 2013 ("Notice of Proposed Requirements"), at 7 (emphasis added). Similarly, The Department described its proposal to require submission of the ETC's customer service designee as follows:

[T]he Department proposes requiring each newly designated ETC to provide the Department with the contact information of the ETC's customer service designee within 60 days of designation, *and prior to offering Lifeline service in Massachusetts.* The Department believes that this would allow the Department's Consumer Division to effectively communicate with the ETC should complaints arise.

*Id.* at 24 (emphasis added). Also, the requirements to file advertising materials and copies of Lifeline applications was specified as to be performed "prior to offering Lifeline service in Massachusetts" in addition to the 60-day requirement. *Id.* at 9, 20. In each of these instances, the Department explained that its interest was to obtain the specified material and review it before the ETC began offering its supported services in the Commonwealth. The 60-day requirement was not an end in itself, but a means to ensure that the information was submitted in timely fashion before service began.

Here, however, where service will not be commenced until considerably after 60 days from the Order, the 60-day requirement is not necessary to satisfy the Department's stated objectives. Instead, Starlink Services suggests that the page 23 timeline will sufficiently satisfy the Department's review timeframes.

**3. There will be no prejudice to the Commonwealth or its citizens.** The information required to be filed within 60 days appears designed to ensure that the Department and

Massachusetts consumers have relevant information about supported services, service quality, and how to protect their interests. This information may be particularly relevant to more vulnerable Lifeline customers. But where Starlink Services will not be providing service within the 60-day period and does not yet have any customers for supported services, there is no consumer interest to protect and no prejudice to customers' interests by not having that information until later than 60 days from issuance of the Order, but still before service is offered.

**4. Resolving these inconsistencies is justified.** Starlink Services respectfully requests that the Department make the timing of compliance with the general conditions on page 17 of the Order consistent with the requirements particular to Starlink Services on page 23 of the Order; specifically, that Starlink Services shall supply the specified information "as soon as it becomes available and prior to commencing RDOF service in Massachusetts." This can be accomplished by clarifying that the requirements to provide the information shall be subject only to the deadlines specified on page 23; waiving compliance with the state requirements until Starlink Services begins providing RDOF service in Massachusetts; or extending the compliance deadline from 60 days from the Order to "prior to providing RDOF service in Massachusetts."

Granting this relief will not jeopardize the protection of consumers or the public interest. But clarifying up front the timing of these obligations will avoid putting Starlink Services in the position of having to comply with impracticable requirements, and will eliminate the possibility of controversy or argument later. Starlink Services reiterates its commitment to complying with the substance of the requirements; its requested relief only impacts the timing of its compliance.

June 17, 2021

Respectfully submitted,

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